

Message

From: Green, Richard [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=80B69BE2DC1642FB864B8BFB7F1B875B-GREEN, RICHARD]
Sent: 7/10/2019 4:03:13 PM
To: DESEMPLE Adam [Adam.DESEMPLE@dhsosha.state.or.us]; Lambeth Debra G [DEBRA.G.LAMBETH@dhsosha.state.or.us]; UNGER Jon * BIZ [Jon.Unger@oregon.gov]
Subject: RE: Small System Equipment Assistance
Attachments: FY10_SRF_Procedures.pdf

Hi guys. Set-asides can be used for grants. The Loan Fund (either funds directly from the capitalization grant, or repayments) can **also** be used for grants, as one of the options for providing the required levels of additional subsidy, aka subsidy.

Prior to ARRA the at-state-discretion loan fund assistance for disadvantaged communities could be principal forgiveness, or negative interest loans:

(b) Assistance to disadvantaged communities. (1) A State may provide loan subsidies (e.g., loans which include principal forgiveness, negative interest rate loans) to benefit communities meeting the State's definition of "disadvantaged" or

Starting with ARRA and continuing since then, for the required doling out of subsidy, states can use principal forgiveness, negative interest loans, or grants:

B. Additional Subsidies

The additional subsidy provision in the Appropriation Bill states that *"Provided further, That not less than 30 percent of the funds made available under this title to each State for Clean Water State Revolving Fund capitalization grants and not less than 30 percent of the funds made available under this title to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide additional subsidy to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these), except that for the Clean Water State Revolving Fund capitalization grant appropriation this section shall only apply to the portion that exceeds \$1,000,000,000."*

Very few, if any, states provide grants for additional subsidy. The reason is that it triggers Federal grant requirements, of which I know very little but they're summarized in OMB circular A-87 (and whatever it is called now under the Uniform Grant Guidance). One in particular that I do know about is **procurement**. Instead of being able to follow state of Oregon procurement rules, grant recipients would have to follow Federal procurement rules. So in addition to the long gamut of crosscutters, Federal reporting requirements and whatnot else that your loan recipients have to deal with, your grant recipients would also have to comply with grant rules. It is ultimately your call, but I don't recommend using grants as the assistance mechanism.

Rick Green, Regional Coordinator
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From: DESEMPLE Adam <Adam.DESEMPLE@dhsosha.state.or.us>

Sent: Monday, July 8, 2019 11:11 AM

To: Lambeth Debra G <DEBRA.G.LAMBETH@dhsosha.state.or.us>; UNGER Jon * BIZ <Jon.Unger@oregon.gov>

Cc: Green, Richard <Green.Richard@epa.gov>

Subject: FW: Small System Equipment Assistance

Here's some language from the DWSRF Program Operations Manual. The chart below is what the LF can be used for. No grants mentioned.

Funds Management. Each DWSRF program must agree to the negotiated payment schedule and to the legislative requirements for use of the funds. The capitalization grant must be deposited into the Fund and in separate accounts for set-aside activities, as detailed in the application. A twenty percent match to the capitalization grant and a one hundred percent match for the State Program Management set-aside are required.³ (See Section 3.4 for more information on DWSRF set-asides and matching funds.) Interest earnings, loan repayments (except for loan repayments through the DWSRF set-asides for land acquisition and SWP activities – see Section 4.2.1), and, where applicable, net bond proceeds must be credited to the Fund. In turn, the Fund can be used for new loans or security for SRF-issued bonds. States must also provide assurances that fiscal controls and accounting systems will be consistent with the Generally Accepted Accounting Principles (GAAP) and that yearly Fund and set-aside account audits will conform to the Generally Accepted Governmental Auditing Standards (GAGAS).

DWSRF Assistance Options and Structure

DWSRF Loans	Refinance or Purchase of Local Debt	Insurance or Guarantee for Local Debt	SRF Issued Bond Security	Other
<ul style="list-style-type: none"> • Loans for individual projects • Loans for multiple projects • Combining previous planning and design loan obligations with newly issued loans • Series of loans for phased projects 	<ul style="list-style-type: none"> • Refinance debt for lower interest rate • Direct purchase of municipal bonds at loan closing 	<ul style="list-style-type: none"> • Purchase insurance for municipal debt • Guarantee holders of local debt that repayment will continue if municipality or public water system defaults 	<ul style="list-style-type: none"> • Security provided on future loan principal and interest repayments to bond holders 	<ul style="list-style-type: none"> • Earn interest on funds • Administration activities and set-aside expenditures • Guarantee debt obligations when leveraging

Additionally, Deb is correct in that according to page 9, Section J. "Authorized Set-Aside Activities" of 40 CFR 35.3535 (a)(2), set-aside funds are not allowed for infrastructure related projects except for those Deb outlined previously.

I believe only set-asides can provide grants. I also believe that LF repayment dollars also must adhere to the same requirement as the LF, therefore, I do not believe it would be allowed to offer a grant versus forgivable loan (i.e., same accounting requirements apply).

Rick – Like the LF, we want to confirm that SRF repayment dollars cannot be issued as a grant versus principal forgiveness and only the set-asides can offer grants, correct?

Thanks!

AD

From: DESEMPLE Adam

Sent: Wednesday, July 3, 2019 2:40 PM

To: Lambeth Debra G <DEBRA.G.LAMBETH@dhsosha.state.or.us>; UNGER Jon * BIZ <Jon.Unger@oregon.gov>

Subject: RE: Small System Equipment Assistance

Yeah, I think Deb's right AND I also think you may be right Jon in regards to the DWSRF funds not being allowed to fund projects via a grant. Which would mean we would need to carve-out set-aside funds to create another grant program, which we do not have the capacity to do (Deb and I already looked in to this).

Having said that, I think we could/should double-check the CFR to see if anything jumps out. If I have time to research before the end of the day, I will. Otherwise I can look in to this some more next week.

AD

From: Lambeth Debra G
Sent: Wednesday, July 3, 2019 1:46 PM
To: UNGER Jon * BIZ <Jon.Unger@oregon.gov>; DESEMPLE Adam <Adam.DESEMPLE@dhsosha.state.or.us>
Subject: RE: Small System Equipment Assistance

If I remember right, from what Rick Green said previously, Set-Aside Funds are not allowed for infrastructure projects unless they are: 1) planning and design; or 2) part of a restructuring project program set up by the State.

Adam? Any other insight on this?

From: UNGER Jon * BIZ <Jon.Unger@oregon.gov>
Sent: Wednesday, July 3, 2019 1:22 PM
To: Lambeth Debra G <DEBRA.G.LAMBETH@dhsosha.state.or.us>
Cc: DESEMPLE Adam <Adam.DESEMPLE@dhsosha.state.or.us>
Subject: FW: Small System Equipment Assistance

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On additional item – Staff indicated that if it could be a grant instead of a forgivable loan it would be easier. Much more paperwork (resolutions etc.) associated with forgivable loan. I remember some difficulties in providing grant through the DWSRF but am unsure exactly what the difficulties were. If SDWRLF repayment moneys only were used (not fed cap grant) would grant be allowed instead of forgivable loan?

From: UNGER Jon * BIZ
Sent: Monday, July 1, 2019 10:31 AM
To: 'Lambeth Debra G' <DEBRA.G.LAMBETH@dhsosha.state.or.us>
Cc: 'DESEMPLE Adam' <Adam.DESEMPLE@dhsosha.state.or.us>
Subject: RE: Small System Equipment Assistance

Hi Debra,

I received feedback from several staff people and it was overall positive. No red flags that I am aware of but more planning is likely needed. There were some comments that rose to the top as described below:

- 1st ineligible activity – It was noted that having the equipment purchase be a part of any bigger project could cause complications (even if it was the DWSRF). We may wish to require it to be a standalone project. Language could be something like ---- Ineligible Activities: “Purchase of equipment or instrumentation that is an integral part of a larger project (equipment purchase and installation must be a standalone project).”
- The application form should require a service area map.
- Based on feedback and my observations, the area with the greatest need for development is how factors “other than MHI” would be used to rank projects. Specifically we would need to flush out how (or if) OHA would insert its technical knowledge in the decision making process. General overview is as follows:
 - While proposed to be part of the prioritization, Business Oregon may not be the best ones to determine equipment age or lack of existing (essential) equipment. OHA as the technical experts may need to do this and then a determination of how this info would be used to bypass the MHI based ranking would need to be made.
 - Census Tract based MHI calculations, while a consistent approach, can inherently be problematic for some systems. An example is a mobile home park (MHP) located in the same tract as a gated community. Both of these communities #s may be included in a tract which wouldn’t be accurate for the MHP. If

OHA provided technical expertise through the “lack of existing equipment & equipment age” analysis, we may be able to overcome some of these limitations.

- In summary, a straight MHI based ranking can be done by Business Oregon in-house but may not best address the actual needs of water systems. If actual water system equipment need was to be considered we would likely need OHA’s help and you all would be conducting a pseudo rating process which you may have hoped to avoid.

Let me know if you want to discuss and I also look forward to finding out what EPA thinks about the concept. Best, Jon

Jon Unger
Program & Policy Coordinator

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From: Lambeth Debra G <DEBRA.G.LAMBETH@dhsosha.state.or.us>
Sent: Friday, June 14, 2019 3:28 PM
To: UNGER Jon * BIZ <Jon.Unger@oregon.gov>
Cc: DESEMPLE Adam <Adam.DESEMPLE@dhsosha.state.or.us>
Subject: Small System Equipment Assistance

Jon –

Our management team gave the go ahead to further flush out and implement this new funding opportunity for small systems. They were very positive about the concept.

I think our next steps should be to have your group (you and a few RPMs?) review the draft concept document to identify obstacles to implementation, then revise the concept as needed and run it by Rick Green to get EPAs buy-off.

Can you please review the document in-house and provide the following feed-back:

- 1) Does Business Oregon like the program concept and believe it can be implemented successfully?
- 2) What are the implementation issues that need to be better addressed before we can move forward.

Thanks for your help with this!

-Debra